

like to call two more points to the attention of the body.

In Scotland we have had the less than unanimous verdict for centuries. In Scotland you have 15. A majority of 8 is required for the verdict. Is there anyone who would argue that Scottish justice has not stood up to American justice?

The arguments that were made on the floor of the House of Commons when Britain abolished the unanimous verdict are equally applicable here.

The Home Secretary who spoke in favor pointed out that in the days when the criminal law was rigged against the defendant a unanimous verdict was entirely proper but then after summing up the procedural protections that have evolved in England, as in this country to now favor the accused, he closed with this sentence in his argument: "We have, I am glad to say, moved well away from the latter approach, that is the approach under which the criminal law was rather rigged against the criminal and moved toward the approach we have in England today where it is rigged in his favor, and it follows in the present state of the crime wave we can feel less equanimity about the acquittal of the guilty."

Mr. Kiefer and his Committee may feel that equanimity. I do not.

THE CHAIRMAN: Delegate Mitchell.

DELEGATE MITCHELL: Mr. Chairman and fellow delegates, it is not a question of what the Committee feels.

We had Judge Barnes from the Court of Appeals of Maryland. We had Judge Foster, the Chief Judge of the Supreme Bench of Baltimore City. We had Mr. Charles Moylan, who is President of the State's Attorneys of Maryland, and we had a number of outstanding trial lawyers, both in criminal and in civil areas of trial practice, to testify. It was their unanimous recommendation that the unanimous vote of a twelve-man jury be continued.

Now, Mr. Moylan, when we specifically asked him whether the provisions such as Judge Henderson proposes would aid in speeding up the criminal cases, he felt that any individual defendant should be entitled to a unanimous verdict.

He pointed out that only in a very small minority of cases in Baltimore City do defendants even elect to be tried by jury. He had had no indication from the state's attorneys in the counties throughout the

State that this was necessary and it was his recommendation that what we have considered a constitutional right to a unanimous verdict by a 12-man jury be continued.

Now, the question is not what the problem is in Scotland but what the problem is in the State of Maryland. The State's Attorney for Baltimore City said in Baltimore last year, they tried 24,000 cases. If you have the President of the State's Attorneys Association for the State of Maryland and the state's attorney for the largest city in the state testifying, I would say that we ought to accept the recommendation of those who are the experts in the field, and that is what our Committee did, and therefore I urge that we vote against this innovation.

THE CHAIRMAN: Does any other delegate desire to speak in favor of the amendment?

Delegate Clagett.

DELEGATE CLAGETT: Mr. Chairman, in this field of sociology if we are really going to give any meaning to the vesting of the police power in the General Assembly, it seems that here we have the question clearly in focus, the forum where properly this matter can be debated at length, and even more expert witnesses can be heard from than those who appeared before the Committee.

Certainly the forum is the General Assembly, and if we are really going to give a degree of flexibility and if we are going to write a skeleton rather than put the dress upon the skeleton, it seems as if we have the question here directly in front of us.

Therefore, I strongly urge that the amendment as suggested here be adopted.

THE CHAIRMAN: Delegate Weidemyer.

DELEGATE WEIDEMEYER: Mr. President and members of the Convention, what startles me is the apparent disregard of the sponsors of this amendment for the rights of the accused in a criminal case.

Yesterday, we debated this quite at length, but by the simple expedient of withdrawing the amendment the proponents come back and get two bites at the same apple.

They tell us today this is not a constitutional right. What more of a constitutional right is it when by the Sixth Amendment